

(b) *Form.* A subpoena shall identify the action with which it is connected; shall specify the person to whom it is addressed and the date, time, and place for compliance with its provisions; and shall be issued by order of the Commission and signed by the Secretary or by the Presiding Officer. A subpoena *duces tecum* shall specify the books, papers, documents, or other materials or data-compilations to be produced.

(c) *How obtained*—(1) *Content of application.* An application for the issuance of a subpoena, stating reasons, shall be submitted in triplicate to the Presiding Officer. The Presiding Officer shall bring the application to the attention of the Commission by forwarding it or by communicating its contents by any other means, e.g., by telephone, to the Commission.

(2) *Procedure for application.* The original and two copies of the subpoena, marked “original,” “duplicate” and “triplicate,” shall accompany the application. The Commission shall rule upon an application for a subpoena *ex parte*, by issuing the subpoena or by issuing an order denying the application.

(d) *Issuance of a subpoena.* The Commission shall issue a subpoena by authorizing the Secretary or the Presiding Officer to sign and date each copy in the lower right-hand corner. The “duplicate” and “triplicate” copies of the subpoena shall be transmitted to the applicant for service in accordance with these Rules; the “original” shall be retained by, or be forwarded to, the Secretary for retention in the docket of the proceedings.

(e) *Service of a subpoena.* A subpoena may be served in person or by registered or certified mail, return receipt requested, as provided in § 1025.16(b) of these rules. Service shall be made by delivery of the signed “duplicate” copy to the person named therein.

(f) *Return of service.* A person serving a subpoena shall promptly execute a return of service, stating the date, time, and manner of service. If service is effected by mail, the signed return receipt shall accompany the return of service. In case of failure to make service, a statement of the reasons for the failure shall be made. The “triplicate” copy of the subpoena, bearing or ac-

companied by the return of service, shall be returned without delay to the Secretary after service has been completed.

(g) *Motion to quash or limit subpoena.* Within five (5) days of receipt of a subpoena, the person to whom it is directed may file a motion to quash or limit the subpoena, setting forth the reasons why the subpoena should be withdrawn or why it should be limited in scope. Any such motion shall be answered within five (5) days of service and shall be ruled on immediately. The order shall specify the date, if any, for compliance with the specifications of the subpoena.

(h) *Consequences of failure to comply.* In the event of failure by a person to comply with a subpoena, the Presiding Officer may take any of the actions enumerated in § 1025.37 of these rules, or may order any other appropriate relief to compensate for the withheld testimony, documents, or other materials. If in the opinion of the Presiding Officer such relief is insufficient, the Presiding Officer shall certify to the Commission a request for judicial enforcement of the subpoena.

**§ 1025.39 Orders requiring witnesses to testify or provide other information and granting immunity.**

(a) *Applicability to Flammable Fabrics Act only.* This section applies only to proceedings arising under the Flammable Fabrics Act.

(b) *Procedure.* A party who desires the issuance of an order requiring a witness or deponent to testify or provide other information upon being granted immunity from prosecution under title 18, United States Code, section 6002, may make a motion to that effect. The motion shall be made and ruled on in accordance with § 1025.23 of these rules and shall include a showing:

(1) That the testimony or other information sought from a witness or deponent, or prospective witness or deponent, may be necessary to the public interest; and

(2) That such individual has refused or is likely to refuse to testify or provide such information on the basis of that individual’s privilege against self-incrimination.

(c) *Approval of the Attorney General.* If the Presiding Officer determines that the witness' testimony appears necessary and that the privilege against self-incrimination may be invoked, he/she may certify to the Commission a request that it obtain the approval of the Attorney General of the United States for the issuance of an order granting immunity.

(d) *Issuance of order granting immunity.* Upon application to and approval by the Attorney General of the United States, and after the witness has invoked the privilege against self-incrimination, the Presiding Officer shall issue the order granting immunity unless he/she determines that the privilege was improperly invoked.

(e) *Sanctions for failure to testify.* Failure of a witness to testify after a grant of immunity or after a denial of a motion for the issuance of an order granting immunity shall result in the imposition of appropriate sanctions as provided in § 1025.37 of these rules.

### Subpart E—Hearings

#### § 1025.41 General rules.

(a) *Public hearings.* All hearings conducted pursuant to these Rules shall be public unless otherwise ordered by the Commission or the Presiding Officer.

(b) *Prompt completion.* Hearings shall proceed with all reasonable speed and, insofar as practicable and with due regard to the convenience of the parties, shall continue without suspension until concluded, except in unusual circumstances or as otherwise provided in these Rules.

(c) *Rights of parties.* Every party shall have the right of timely notice and all other rights essential to a fair hearing, including, but not limited to, the rights to present evidence, to conduct such cross-examination as may be necessary for a full and complete disclosure of the facts, and to be heard by objection, motion, brief, and argument.

(d) *Rights of participants.* Every participant shall have the right to make a written or oral statement of position and to file proposed findings of fact, conclusions of law, and a post hearing brief, in accordance with § 1025.17(b) of these Rules.

(e) *Rights of witnesses.* Any person compelled to testify in any proceedings in response to a subpoena may be accompanied, represented, and advised by legal counsel or other representative, and may purchase a transcript of his/her testimony.

#### § 1025.42 Powers and duties of Presiding Officer.

(a) *General.* A Presiding Officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order. He/she shall have all powers necessary to that end, including the following powers:

(1) To administer oaths and affirmations;

(2) To compel discovery and to impose appropriate sanctions for failure to make discovery;

(3) To rule upon offers of proof and receive relevant, competent, and probative evidence;

(4) To regulate the course of the proceedings and the conduct of the parties and their representatives;

(5) To hold conferences for simplification of the issues, settlement of the proceedings, or any other proper purposes;

(6) To consider and rule, orally or in writing, upon all procedural and other motions appropriate in adjudicative proceedings;

(7) To issue Summary Decisions, Initial Decisions, Recommended Decisions, rulings, and orders, as appropriate;

(8) To certify questions to the Commission for its determination; and

(9) To take any action authorized by these Rules or the provisions of title 5, United States Code, sections 551-559.

(b) *Exclusion of parties by Presiding Officer.* A Presiding Officer shall have the authority, for good cause stated on the record, to exclude from participation in any proceedings any party, participant, or representative who violates the requirements of § 1025.66 of these rules. Any party, participant or representative so excluded may appeal to the Commission in accordance with the provisions of § 1025.24 of these rules. If the representative of a party or participant is excluded, the hearing may be